

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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RONALD CANTOR, IVAN SNYDER and :
JAMES A. SCARPONE, as TRUSTEES OF :
THE MAFCO LITIGATION TRUST, :
: Plaintiffs,
- against - : C.A. No. 97-586-KAJ
RONALD O. PERELMAN, :
MAFCO HOLDINGS INC., :
MacANDREWS & FORBES HOLDINGS INC., :
ANDREWS GROUP INCORPORATED, :
WILLIAM C. BEVINS and :
DONALD G. DRAPKIN, :
: Defendants.
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**PLAINTIFFS' MOTION TO EXCLUDE THE TESTIMONY OF LAWRENCE
A. HAMERMESH AND CERTAIN OPINIONS OF ROBERT W. HOLTHAUSEN**

In accordance with the Scheduling Order dated October 18, 2005 and upon the accompanying Memorandum of Law, the Declaration of Jonathan Gottfried and the exhibits attached thereto, and all prior pleadings and proceedings in this action, plaintiffs, as Trustees of The MAFCO Litigation Trust, through their undersigned attorneys, hereby move this Court, pursuant to Federal Rule of Evidence 702 and the principles in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), for an order excluding from evidence:

(a) the proposed testimony of defendants' expert Professor Lawrence A. Hamermesh on the ground that Professor Hamermesh is offering an opinion as to matters of Delaware law, which is not a proper subject for expert testimony, and (b) the opinions in paragraphs 7 through 9 and 15 through 23 of the Expert Rebuttal Report of defendants'

expert Professor Robert W. Holthausen on the ground that Professor Holthausen's proposed testimony as to damages is based on an incorrect legal theory concerning the measure of damages.

ASHBY & GEDDES

/s/ Tiffany Geyer Lydon

Lawrence C. Ashby (I.D. 468)
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-and-

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1633 Broadway
New York, New York 10019-6708
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Attorneys for Plaintiffs

Dated: June 1, 2006

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: :
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PROPOSED ORDER

On this ____ day of _____, 2006, the motion of plaintiffs, as Trustees of The MAFCO Litigation Trust, pursuant to Federal Rule Evidence 702 and the principles in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), to exclude:

- (a) the proposed testimony of defendants' expert Professor Lawrence A. Hamermesh on the ground that Professor Hamermesh is offering an opinion as to matters of Delaware law, which is not a proper subject for expert testimony, and
- (b) the opinions in paragraphs 7 through 9 and 15 through 23 of the Expert Rebuttal Report of defendants' expert Professor Robert W. Holthausen on the ground that Professor Holthausen's proposed testimony as to damages is based on an incorrect legal theory concerning the measure of damages

is hereby granted. Defendants may not present, and the Court will exclude from evidence at the trial: (a) the opinions expressed in the Hamermesh Report, in their entirety; and (b) the opinions expressed in paragraphs 7 through 9 and 15 through 23 of the Holthausen Rebuttal Report.

United States District Judge

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STATEMENT PURSUANT TO LOCAL RULE 7.1.1

Pursuant to Local Rule 7.1.1, attorneys for plaintiffs state that they have made a reasonable effort to reach agreement with the opposing attorneys on the matters set forth in the motion to exclude the proposed testimony of Lawrence A. Hamermesh and certain opinions of Robert W. Holthausen.

/s/ Tiffany Geyer Lydon

Tiffany Geyer Lydon (I.D. #3950)

Dated: June 1, 2006

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June 2006, I hand delivered and electronically filed
PLAINTIFFS' MOTION TO EXCLUDE THE TESTIMONY OF LAWRENCE A.
HAMERMESH AND CERTAIN OPINIONS OF ROBERT W. HOLTHAUSEN with the
Clerk of Court using CM/ECF which will send notification of such filing to the following:

Anthony W. Clark, Esquire
Skadden Arps Slate Meagher & Flom LLP
One Rodney Square
Wilmington, DE 19899

/s/ Tiffany Geyer Lydon

Tiffany Geyer Lydon

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